

By: Representative Morris

To: Ways and Means

HOUSE BILL NO. 1352

1 AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO
2 EXTEND THE PROGRAM THAT AUTHORIZES THE MISSISSIPPI BUSINESS
3 FINANCE CORPORATION TO LOAN OR GRANT FUNDS FROM THE EMERGING CROPS
4 FUND TO CERTAIN ENTITIES FOR LOAN REVOLVING FUNDS TO ASSIST IN
5 PROVIDING FINANCING FOR MINORITY ECONOMIC DEVELOPMENT; TO INCREASE
6 THE AMOUNT THAT THE MISSISSIPPI BUSINESS FINANCE CORPORATION MAY
7 DRAW FOR SUCH PURPOSES FROM THE EMERGING CROPS FUND FROM
8 \$18,000,000.00 TO \$22,000,000.00; TO AUTHORIZE THE MISSISSIPPI
9 BUSINESS FINANCE CORPORATION TO DECLARE QUALIFIED ENTITIES
10 ADMINISTERING SUCH LOAN PROGRAMS IN DEFAULT UNDER CERTAIN
11 CIRCUMSTANCES AND TO TAKE CERTAIN ACTIONS IN THE EVENT OF A
12 DEFAULT; TO INCREASE THE AMOUNT THAT THE MISSISSIPPI BUSINESS
13 FINANCE CORPORATION MAY DRAW FROM THE EMERGING CROPS FUND FOR THE
14 MINORITY SURETY BOND PROGRAM FROM \$2,000,000.00 TO \$3,000,000.00;
15 TO AMEND SECTION 69-2-19, MISSISSIPPI CODE OF 1972, TO INCREASE
16 THE AGGREGATE AMOUNT OF BONDS THAT MAY BE ISSUED FOR THE EMERGING
17 CROPS FUND FROM \$97,000,000.00 TO \$102,000,000.00; AND FOR RELATED
18 PURPOSES.

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

20 SECTION 1. Section 69-2-13, Mississippi Code of 1972, is
21 amended as follows:

22 69-2-13. (1) There is hereby established in the State
23 Treasury a fund to be known as the "Emerging Crops Fund," which
24 shall be used to pay the interest on loans made to farmers for
25 nonland capital costs of establishing production of emerging crops
26 on land in Mississippi, and to make loans and grants which are
27 authorized under this section to be made from the fund. The fund
28 shall be administered by the Mississippi Development Authority. A
29 board comprised of the directors of the authority, the Mississippi
30 Cooperative Extension Service, the Mississippi Small Farm
31 Development Center and the Mississippi Agricultural and Forestry
32 Experiment Station, or their designees, shall develop definitions,
33 guidelines and procedures for the implementation of this chapter.

34 Funds for the Emerging Crops Fund shall be provided from the
35 issuance of bonds or notes under Sections 69-2-19 through 69-2-37
36 and from repayment of interest loans made from the fund.

37 (2) (a) The Mississippi Business Finance Corporation shall
38 develop a program which gives fair consideration to making loans
39 for the processing and manufacturing of goods and services by
40 agribusiness, greenhouse production horticulture, and small
41 business concerns. It is the policy of the State of Mississippi
42 that such corporation shall give due recognition to and shall aid,
43 counsel, assist and protect, insofar as is possible, the interests
44 of agribusiness, greenhouse production horticulture, and small
45 business concerns. To ensure that the purposes of this subsection
46 are carried out, the corporation shall loan not more than One
47 Million Dollars (\$1,000,000.00) to finance any single
48 agribusiness, greenhouse production horticulture, or small
49 business concern. Loans made pursuant to this subsection shall be
50 made in accordance with the criteria established in Section
51 57-71-11.

52 (b) The Mississippi Business Finance Corporation may,
53 out of the total amount of bonds authorized to be issued under
54 this chapter, make available funds to any planning and development
55 district in accordance with the criteria established in Section
56 57-71-11. Planning and development districts which receive monies
57 pursuant to this provision shall use such monies to make loans to
58 private companies for purposes consistent with this subsection.

59 (c) The Mississippi Business Finance Corporation is
60 hereby authorized to engage legal services, financial advisors,
61 appraisers and consultants if needed to review and close loans
62 made hereunder and to establish and assess reasonable fees
63 including, but not limited to, liquidation expenses.

64 (3) The Mississippi Development Authority shall, in addition
65 to the other programs described in this section, provide for a
66 program of loans to be made to agribusiness or greenhouse

67 production horticulture enterprises for the purpose of encouraging
68 thereby the extension of conventional financing and the issuance
69 of letters of credit to such agribusiness or greenhouse production
70 horticulture enterprises by private institutions. Monies to make
71 such loans by the authority shall be drawn from the Emerging Crops
72 Fund. The amount of a loan to any single agribusiness or
73 greenhouse production horticulture enterprise shall not exceed
74 twenty percent (20%) of the total cost of the project for which
75 financing is sought or Two Hundred Thousand Dollars (\$200,000.00),
76 whichever is less. No interest shall be charged on such loans,
77 and only the amount actually loaned shall be required to be
78 repaid. Repayments shall be deposited into the Emerging Crops
79 Fund.

80 (4) (a) Through June 30, 2003, the Mississippi Business
81 Finance Corporation may loan or grant to qualified planning and
82 development districts, and to small business investment
83 corporations, bank-based community development corporations, the
84 Recruitment and Training Program, Inc., the City of Jackson
85 Business Development Loan Fund, the Lorman Southwest Mississippi
86 Development Corporation, the West Jackson Community Development
87 Corporation, the East Mississippi Development Corporation, and
88 other entities meeting the criteria established by the Mississippi
89 Business Corporation (all referred to hereinafter as "qualified
90 entities"), funds for the purpose of establishing loan revolving
91 funds to assist in providing financing for minority economic
92 development. The monies loaned or granted by the Mississippi
93 Business Finance Corporation shall be drawn from the Emerging
94 Crops Fund and shall not exceed Twenty-two Million Dollars
95 (\$22,000,000.00) in the aggregate. Planning and development
96 districts or qualified entities which receive monies pursuant to
97 this provision shall use such monies to make loans to minority
98 business enterprises consistent with criteria established by the

99 Mississippi Business Finance Corporation. Such criteria shall
100 include, at a minimum, the following:

101 (i) The business enterprise must be a private,
102 for-profit enterprise.

103 (ii) If the business enterprise is a
104 proprietorship, the borrower must be a resident citizen of the
105 State of Mississippi; if the business enterprise is a corporation
106 or partnership, at least fifty percent (50%) of the owners must be
107 resident citizens of the State of Mississippi.

108 (iii) The borrower must have at least five percent
109 (5%) equity interest in the business enterprise.

110 (iv) The borrower must demonstrate ability to
111 repay the loan.

112 (v) The borrower must not be in default of any
113 previous loan from the state or federal government.

114 (vi) Loan proceeds may be used for financing all
115 project costs associated with development or expansion of a new
116 small business, including fixed assets, working capital, start-up
117 costs, rental payments, interest expense during construction and
118 professional fees related to the project.

119 (vii) Loan proceeds shall not be used to pay off
120 existing debt for loan consolidation purposes; to finance the
121 acquisition, construction, improvement or operation of real
122 property which is to be held primarily for sale or investment; to
123 provide for, or free funds, for speculation in any kind of
124 property; or as a loan to owners, partners or stockholders of the
125 applicant which do not change ownership interest by the applicant.
126 However, this does not apply to ordinary compensation for services
127 rendered in the course of business.

128 (viii) The maximum amount that may be loaned to
129 any one (1) borrower shall be Two Hundred Fifty Thousand Dollars
130 (\$250,000.00).

131 (ix) The Mississippi Business Finance Corporation
132 shall review each loan before it is made, and no loan shall be
133 made to any borrower until the loan has been reviewed and approved
134 by the Mississippi Business Finance Corporation.

135 (b) For the purpose of this subsection, the term
136 "minority business enterprise" means a socially and economically
137 disadvantaged small business concern, organized for profit,
138 performing a commercially useful function which is owned and
139 controlled by one or more minorities or minority business
140 enterprises certified by the Mississippi Business Finance
141 Corporation, at least fifty percent (50%) of whom are resident
142 citizens of the State of Mississippi. For purposes of this
143 subsection, the term "socially and economically disadvantaged
144 small business concern" shall have the meaning ascribed to such
145 term under the Small Business Act (15 USCS, Section 637(a)), or
146 women, and the term "owned and controlled" means a business in
147 which one or more minorities or minority business enterprises
148 certified by the Mississippi Business Finance Corporation own
149 sixty percent (60%) or, in the case of a corporation, sixty
150 percent (60%) of the voting stock, and control sixty percent (60%)
151 of the management and daily business operations of the business.

152 From and after July 1, 2003, monies not loaned or granted by
153 the Business Finance Corporation to planning and development
154 districts or qualified entities under this subsection, and monies
155 not loaned by planning and development districts or qualified
156 entities, shall be deposited to the credit of the sinking fund
157 created and maintained in the State Treasury for the retirement of
158 bonds issued under Section 69-2-19.

159 (c) If the Mississippi Business Finance Corporation
160 determines that a qualified entity has provided loans to minority
161 businesses in a manner inconsistent with the provisions of this
162 subsection, then the amount of such loans so provided shall be
163 withheld by the Mississippi Business Finance Corporation from any

164 additional grant funds to which the qualified entity becomes
165 entitled under this subsection. If the Mississippi Business
166 Finance Corporation determines, after notifying such qualified
167 entity twice in writing and providing such qualified entity a
168 reasonable opportunity to comply, that a qualified entity has
169 consistently failed to comply with this subsection, the
170 Mississippi Business Finance Corporation may declare such
171 qualified entity in default under this subsection and, upon
172 receipt of notice thereof from the Mississippi Business Finance
173 Corporation, such qualified entity shall immediately cease
174 providing loans under this subsection, shall refund to the
175 Mississippi Business Finance Corporation for distribution to other
176 qualified entities all funds held in its revolving loan fund and,
177 if required by the Mississippi Business Finance Corporation, shall
178 convey to the Mississippi Business Finance Corporation all
179 administrative and management control of loans provided by it
180 under this subsection.

181 (d) If the Mississippi Business Finance Corporation
182 determines, after notifying a qualified entity twice in writing
183 and providing such entity a reasonable opportunity to take
184 corrective action, that a qualified entity administering a
185 revolving loan fund under the provisions of this subsection is not
186 actively engaged in lending as defined by the rules and
187 regulations of the Mississippi Business Finance Corporation, the
188 Mississippi Business Finance Corporation may declare such
189 qualified entity in default under this subsection and, upon
190 receipt of notice thereof from the Mississippi Business Finance
191 Corporation, such qualified entity shall immediately cease
192 providing loans under this subsection, shall refund to the
193 Mississippi Business Finance Corporation for distribution to other
194 qualified entities all funds held in its revolving loan fund and,
195 if required by the Mississippi Business Finance Corporation, shall
196 convey to the Mississippi Business Finance Corporation all

197 administrative and management control of loans provided by it
198 under this subsection.

199 (5) The Mississippi Business Finance Corporation shall
200 develop a program which will assist minority business enterprises
201 by guaranteeing bid, performance and payment bonds which such
202 minority businesses are required to obtain in order to contract
203 with federal agencies, state agencies or political subdivisions of
204 the state. Monies for such program shall be drawn from the monies
205 allocated under subsection (4) of this section to assist the
206 financing of minority economic development and shall not exceed
207 Three Million Dollars (\$3,000,000.00) in the aggregate. The
208 Mississippi Business Finance Corporation may promulgate rules and
209 regulations for the operation of the program established pursuant
210 to this subsection. For the purpose of this subsection (5) the
211 term "minority business enterprise" has the meaning assigned such
212 term in subsection (4) of this section.

213 (6) The Mississippi Business Finance Corporation may loan or
214 grant to public entities and to nonprofit corporations funds to
215 defray the expense of financing (or to match any funds available
216 from other public or private sources for the expense of financing)
217 projects in this state which are devoted to the study, teaching
218 and/or promotion of regional crafts and which are deemed by the
219 corporation to be significant tourist attractions. The monies
220 loaned or granted shall be drawn from the Emerging Crops Fund and
221 shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00)
222 in the aggregate.

223 (7) Through June 30, 1998, the Mississippi Business Finance
224 Corporation shall make available to the Mississippi Department of
225 Agriculture and Commerce funds for the purpose of establishing
226 loan revolving funds and other methods of financing for
227 agribusiness programs administered under the Mississippi
228 Agribusiness Council Act of 1993. The monies made available by
229 the Mississippi Business Finance Corporation shall be drawn from

230 the Emerging Crops Fund and shall not exceed Seven Hundred
231 Thousand Dollars (\$700,000.00) in the aggregate. The Mississippi
232 Department of Agriculture and Commerce shall establish control and
233 auditing procedures for use of these funds. These funds will be
234 used primarily for quick payment to farmers for vegetable and
235 fruit crops processed and sold through vegetable processing plants
236 associated with the Department of Agriculture and Commerce and the
237 Mississippi State Extension Service.

238 (8) From and after July 1, 1996, the Mississippi Business
239 Finance Corporation shall make available to the Mississippi Small
240 Farm Development Center One Million Dollars (\$1,000,000.00) to be
241 used by the center to assist small entrepreneurs as provided in
242 Section 37-101-25, Mississippi Code of 1972. The monies made
243 available by the Mississippi Business Finance Corporation shall be
244 drawn from the Emerging Crops Fund.

245 (9) The Mississippi Business Finance Corporation shall make
246 available to the Agribusiness and Natural Resource Development
247 Center through Alcorn State University an amount not to exceed Two
248 Hundred Fifty Thousand Dollars (\$250,000.00) in Fiscal Year 2001
249 and Two Hundred Fifty Thousand Dollars (\$250,000.00) in Fiscal
250 Year 2002 from the cash balance of the Emerging Crops Fund to
251 support the development of a cooperative program for agribusiness
252 development, marketing and natural resources development. This
253 subsection (9) shall stand repealed on June 30, 2002.

254 (10) The Mississippi Business Finance Corporation shall make
255 available to the Small Farm Development Center at Alcorn State
256 University funds in an aggregate amount not to exceed Three
257 Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash
258 balance of the Emerging Crops Fund. The Small Farm Development
259 Center at Alcorn State University shall use such funds to make
260 loans to producers of sweet potatoes and cooperatives anywhere in
261 the State of Mississippi owned by sweet potato producers to assist
262 in the planting of sweet potatoes and the purchase of sweet potato

263 production and harvesting equipment. A report of the loans made
264 under this subsection shall be furnished by January 15 of each
265 year to the Chairman of the Senate Agriculture Committee and the
266 Chairman of the House Agriculture Committee.

267 (11) The Mississippi Business Finance Corporation shall make
268 available to the Mississippi Department of Agriculture and
269 Commerce "Make Mississippi Mine" program an amount not to exceed
270 One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from
271 the cash balance of the Emerging Crops Fund.

272 SECTION 2. Section 69-2-19, Mississippi Code of 1972, is
273 amended as follows:

274 69-2-19. The Mississippi Development Authority is
275 authorized, at one (1) time or from time to time, to declare by
276 resolution the necessity for issuance of negotiable general
277 obligation bonds of the State of Mississippi to provide funds for
278 the Emerging Crops Fund established in Section 69-2-13. Upon the
279 adoption of a resolution by the board, declaring the necessity for
280 the issuance of any part or all of the general obligation bonds
281 authorized by Sections 69-2-19 through 69-2-39, the authority
282 shall deliver a certified copy of its resolution or resolutions to
283 the State Bond Commission. Upon receipt of same, the State Bond
284 Commission, in its discretion, shall act as the issuing agent,
285 prescribe the form of the bonds, advertise for and accept bids,
286 issue and sell the bonds so authorized to be sold, and do any and
287 all other things necessary and advisable in connection with the
288 issuance and sale of such bonds. The amount of bonds issued under
289 Sections 69-2-19 through 69-2-39 shall not exceed One Hundred Two
290 Million Dollars (\$102,000,000.00) in the aggregate. No bonds may
291 be issued under Sections 69-2-19 through 69-2-39 after October 1,
292 2003.

293 SECTION 3. This act shall take effect and be in force from
294 and after July 1, 2001.